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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,013	03/29/2004	Gavriel J. Iddan	P-5683-US	8980
49443 7590 09/30/2008 Pearl Cohen Zedek Latzer, LLP 1500 Broadway 12th Floor New York, NY 10036				
EXAMINER RAMIREZ, JOHN FERNANDO				
ART UNIT		PAPER NUMBER		
3737				
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09/30/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/811,013

Applicant(s)

IDDAN, GAVRIEL J.

Examiner

JOHN F. RAMIREZ

Art Unit

3737

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06/18/08.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/55/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments filed on 06/18/08 have been fully considered but they are not persuasive.

Applicant alleges on page 6 of the amendment, that the Alfano et al. patent does not teach "an external control device, the external control device including at least a magnetic field source producing a magnetic field sufficient to operate the switch". However, the examiner of record respectfully disagrees with applicant's assertions. In Figure 6 of the Alfano patent shows an external control device that creates a magnetic field sufficient to power the induction motor-based to generate electric current to the computer and controller system (as shown in Fig. 5) that operate the CCD and MEMS switch. In col. 5, lines 52-65; and col. 6 lines 22-34, the specifications of the Alfano et al. patent specifically states:

is a remote induction generator. As seen in FIG. 6, a modified induction motor-based electric generator can be disposed inside the device, with an external time-varied powered magnetic field used to rotate a rotor inside the device, the rotated rotor then being used to generate electric current. Another external pumped power source is a remote microwave delivery system comprising EM antennae or receivers with high absorption coefficient and resonance geometrical arrangement built inside the device to collect external microwave energy at a designated wavelength. Still another external pumped power source is a remote ultrasound delivery system comprising piezoelectric receivers built inside the device to collect external ultrasonic energy to power the device and to charge-up an internal battery.

A spectroscopic imaging system in device 11 is incorporated into the device and is connected to the CCD image system (or photodiodes, such as avalanche diodes) to improve the sensitivity of the disease diagnosis. Micro scale narrow band filters, color filter system and/or gratings can be added to the illumination source from laser, flash lamp, LED and the collected signal of the CCD camera, photodiode, avalanche photodiodes or PMT to obtain the spectroscopic information on the disease area. Wide-band dielectric filters on the device can be used to separate various colors emitted or absorbed. The filters may be rotated on a MEMS rotation wheels to select different wavelengths to measure light intensities for processing and image analysis to diagnosis.

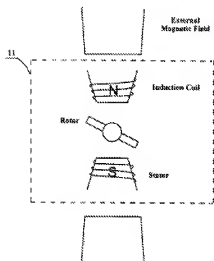


Fig. 6

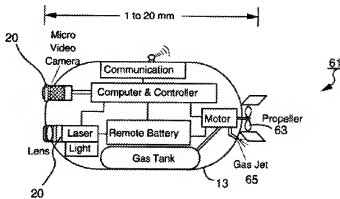


Fig. 5

Based on the above evidence, the system disclosed by Alfano et al. teaches "an external control device, the external control device including at least a magnetic field source producing a magnetic field sufficient to operate the switch".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14-20 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Alfano et al. (US 6,240,312).

The Alfano et al. patent teaches a system for in-vivo imaging comprising: an in-vivo swallowable capsule device including at least: a CCD imager sensor; and a normally closed MEMS switch electrically connected to a processing circuit (see Figs. 1 and 5), and the switch is configured to change a property of the in-vivo device (col. 6 lines 22-34; col. 2, lines 42-58; col. 6, lines 21-46; col. 4, lines 25-37); and an external control device (see figure 1 and 6), the external control device including at least a magnetic field source producing a magnetic field sufficient to keep the switch open (see figure 6 and related description; see col. 5, lines 52-65; and col. 6 lines 22-34), a controller to receive data relating to an in-vivo condition location and, in response, operate the magnetic field source (col. 2, lines 18-38; col. 3, line 64 - col. 4, line 19), and altering the operation of the switch alters the operation of the in-vivo device (col. 5, lines 25-65).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Alfano et al. (US 6,240,312).

Regarding claim 21, Alfano et al. teaches all the limitations of the claimed subject matter except for mentioning specifically, wherein the switch comprises: a first ferromagnetic conductive terminal; a flexible ferromagnetic conductive terminal; and a non-magnetic conductive terminal; wherein the first ferromagnetic conductive terminal and the non-magnetic conductive terminal are electrically isolated.

The examiner takes official notice that manufactured MEMS switches are known to have a first ferromagnetic conductive terminal; a flexible ferromagnetic conductive terminal; and a non-magnetic conductive terminal; wherein the first ferromagnetic conductive terminal and the non-magnetic conductive terminal are electrically isolated, therefore, it would have been obvious to those skill in the art to utilize a MEMS switch with a ferromagnetic conductive terminal and the non-magnetic conductive terminal are electrically isolated, as is obvious and conventional in the art, based on what is known in the art.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN F. RAMIREZ whose telephone number is (571)272-8685. The examiner can normally be reached on (Mon-Fri) 7:00 - 3:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian L. Casler can be reached on (571) 272-4956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Brian L Casler/
Supervisory Patent Examiner, Art
Unit 3737

/J. F. R./
Examiner, Art Unit 3737